



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 22, 2022**, which reads as follows:*

“G.R. No. 219376 (*Department of Health v. Dahlia M. Romero*). – It appearing that, to date, respondent has not filed a comment on the petition for review on *certiorari* as required in the Resolution dated March 9, 2016 and reiterated in the Resolution dated March 29, 2022 within the period fixed therein which has definitely expired, the Court **DEEMS** the filing of the comment as **WAIVED**.

Before the Court is a petition for *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>1</sup> dated April 7, 2014, of the Court of Appeals (CA) in CA-G.R. SP No. 112791, entitled *Department of Health v. Dahlia M. Romero*, which dismissed the petition for review filed by the Department of Health (DOH), as well as the Resolution<sup>2</sup> dated June 30, 2015, denying petitioner’s motion for reconsideration.

**Facts**

On August 13, 2007, Dr. Emmanuel F. Acluba (Dr. Acluba), Chief of Hospital of the Cagayan Valley Medical Center, Tuguegarao City, sent a letter to Atty. Ronald R. De Veyra (Atty. De Veyra) of the Department of Health-Legal Services (DOH-Legal Services). In his letter, Dr. Acluba alleged that sometime in August 2006, at the Chowking Restaurant, Tayuman St., Rizal Avenue, Sta. Cruz, Manila, respondent Dahlia M. Romero (Romero), then Legal Assistant II of the DOH-Legal Service, together with a certain Vergil (spelled as “Vengil” in the CA Decision), tried to extort money from him. Vergil presented himself to be a cousin of Atty. Cherric Grace P. Bareng of the DOH-Legal Service. According to Dr. Acluba, Romero and Vergil asked for ₱350,000.00 in order to facilitate the resolution of his administrative case pending before the DOH-Legal Service.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 9-19. Penned by Associate Justice Michael P. Elbinias, with Associate Justices Isaias P. Dicedican and Victoria Isabel A. Paredes, concurring.

<sup>2</sup> *Id.* at 7-8. Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Remedios A. Salazar-Fernando and Isaias P. Dicedican, concurring.

<sup>3</sup> *Id.* at 53, 92-93.

Acting on the letter, Atty. De Veyra issued a letter directing Romero to submit her counter-affidavit relative to her involvement in the extortion alleged by Dr. Acluba.<sup>4</sup> In lieu of a counter-affidavit, Romero wrote a letter dated November 12, 2007, addressed to Atty. De Veyra, stating that she agreed to meet with Vergil, who asked her a favor to prepare his *curriculum vitae*, to be used for his application abroad. While waiting for Vergil at the vicinity of Tayuman St. corner Rizal Avenue, she saw Dr. Acluba at the time that Vergil was approaching her. She introduced Vergil to Dr. Acluba who, in turn, invited them for lunch. Romero insisted that they never reached Chowking Restaurant because they begged off from the invitation. They proceeded to the DOH-Legal Office to prepare the *curriculum vitae*.<sup>5</sup>

Finding her explanation unsatisfactory, Atty. De Veyra recommended that Romero be formally charged with Grave Misconduct.<sup>6</sup> On November 10, 2008, the Department of Health (petitioner), through Secretary of Health Francisco T. Duque, III, rendered a Decision<sup>7</sup> finding Romero guilty of Grave Misconduct, the dispositive portion of which reads:

**WHEREFORE**, premises considered, **MRS. DAHLIA M. ROMERO**, is hereby found guilty of Grave Misconduct and meted out the administrative penalty of **DISMISSAL FROM THE SERVICE with forfeiture of retirement benefits** and perpetual disqualification for re-employment in the government service.

**SO ORDERED.**<sup>8</sup>

Romero appealed to the Civil Service Commission (CSC). On September 1, 2009, the CSC issued Resolution No. 091269,<sup>9</sup> setting aside and reversing the Secretary of Health's Decision, thus:

**WHEREFORE**, the appeal of Dahlia M. Romero, Legal Assistant II, Legal Service – Department of Health (DOH) is hereby **GRANTED**. Accordingly, the Decision dated November 10, 2008 issued by Secretary Francisco T. Duque III, DOH dismissing her from the service for Grave Misconduct, is **REVERSED AND SET ASIDE**. Accordingly, Dahlia S. Romero is hereby **REINSTATED** to her former position and shall be paid her back salaries and other benefits corresponding to the period of her illegal dismissal.<sup>10</sup>

The DOH, through Atty. De Veyra, moved for reconsideration of CSC Resolution No. 091269. On January 13, 2010, the CSC, in its Resolution No. 100175,<sup>11</sup> denied the motion for reconsideration. The CSC directed Health

<sup>4</sup> Id. at 82.

<sup>5</sup> Id. at 83.

<sup>6</sup> Id. at 85.

<sup>7</sup> Id. at 92-98.

<sup>8</sup> Id. at 98.

<sup>9</sup> Id. at 65-73.

<sup>10</sup> Id. at 73.

<sup>11</sup> Id. at 74-80.

Secretary Francisco T. Duque, III, to effect the immediate reinstatement of Romero to her former position.<sup>12</sup>

Not satisfied with the CSC Resolution, the DOH filed with the CA a petition for review under Rule 43 of the Rules of Court, praying that a temporary restraining order and a writ of preliminary injunction be issued enjoining the enforcement and implementation of the CSC Resolution Nos. 091269 and 100175, and that the same be reversed and set aside.<sup>13</sup>

On April 7, 2014, the CA promulgated the assailed Decision, the dispositive portion of which reads:

**IN VIEW OF ALL THESE, the Petition is DENIED.**

**SO ORDERED.**<sup>14</sup>

In affirming the CSC Resolutions, the CA held that the DOH, through its Legal Service, failed to comply with the grounds for filing a motion for reconsideration under Section 40 of the Uniform Rules on Administrative Cases in the Civil Service.<sup>15</sup> The CA found that petitioner failed to offer new arguments, evidence, or errors of law in its motion for reconsideration. Moreover, the CA held that there was no substantial evidence to prove that Romero was administratively liable for grave misconduct.

The main issue before the Court is whether the CA gravely erred in affirming the CSC Resolutions ordering the reinstatement of Romero to her former position.

The petition is without merit.

The DOH argues that there was more than substantial evidence to support its findings that Romero is administratively liable for grave misconduct. It insists that it was Romero who introduced Dr. Acluba to Vergil, and that she was the one who arranged their meeting. Romero and Vergil discussed with Dr. Acluba about the settlement of the administrative cases filed against the latter and in exchange, demanded a sum of money. The DOH further contends that the CA erred in affirming the ruling of the CSC denying its motion for reconsideration.

We rule that Romero is not liable for grave misconduct.

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<sup>12</sup> Id.

<sup>13</sup> Id. at 24-49.

<sup>14</sup> Id. at 18.

<sup>15</sup> Section 40. Grounds for Motion for Reconsideration. -The motion for reconsideration shall be based on any of the following:

a. New evidence has been discovered which materially affects the decision rendered, or b. The decision is not supported by evidence on record or c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

Misconduct is a transgression of some established and definite rule of action, particularly, as a result of a public officer's unlawful behavior, recklessness, or gross negligence. This type of misconduct is characterized for purposes of gravity and penalty as simple misconduct.<sup>16</sup> The misconduct is grave if it involves any of the additional elements of corruption, clear willful intent to violate the law, or flagrant disregard of established rules, supported by substantial evidence.<sup>17</sup> In the present case, the DOH, through its Legal Service, failed to prove by substantial evidence that Romero had extorted money from Dr. Alcuba.

As found by the CA, the records show that Dr. Alcuba merely alleged that Romero sent him an SMS message for them to meet at the Chowking Restaurant in Sta. Cruz, Manila, to collect money as consideration for the settlement of his pending administrative case. The CA noted, however, that the DOH did not present any evidence, such as the SMS message, to prove such claim. Moreover, the CSC was not convinced that there was substantial evidence that would show that an extortion of money had indeed happened. It held that the prosecution failed to show that Romero demanded, solicited or collected money as consideration for her duty as Legal Officer. What could only be deduced is that Romero was with Vergil at the Chowking Restaurant somewhere on Tayuman St. and Rizal Avenue, Sta. Cruz, Manila; and that, coincidentally, they met Dr. Alcuba. However, it was not established that Romero committed the said irregular act; hence, she cannot be held administratively liable for grave misconduct. The rule is settled that the findings of fact of an administrative agency, like the CSC, are accorded due respect and even finality, and are binding upon the court especially when supported by substantial evidence, as in this case.

With regard to the claim of DOH that the CSC erred in denying its motion for reconsideration, the same is patently without merit. Section 40 of the Uniform Rules on Administrative Cases in the Civil Service provides for the grounds for filing a motion for reconsideration, to wit:

Section 40. Grounds for Motion for Reconsideration. -The motion for reconsideration shall be based on any of the following:

- a. New evidence has been discovered which materially affects the decision rendered, or
- b. The decision is not supported by evidence on record or
- c. Errors of law or irregularities have been committed prejudicial to the interest of the movant.

In this case, the arguments raised by the DOH in its motion for reconsideration are merely a rehash of the arguments which had already been

<sup>16</sup> *Imperial, Jr. v. Government Service Insurance System*, 674 Phil. 286, 298 (2011); *Civil Service Commission v. Ledesma*, 508 Phil. 569, 579-580 (2005).

<sup>17</sup> *Civil Service Commission v. Ledesma*, *id.*

passed upon and resolved in the resolution sought to be reconsidered. There being no new argument or evidence of errors of law that would convince the Commission to overturn its resolution, the Court holds that the CSC did not err in denying the motion for reconsideration filed by the DOH.

**WHEREFORE**, the petition is **DENIED**. Accordingly, the Decision of the Court of Appeals dated April 7, 2014 and its Resolution dated June 30, 2015, in CA-G.R. SP No. 112791 are **AFFIRMED** *in toto*.

**SO ORDERED.”**

By authority of the Court:

*MisADC Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

*JB 5/31/22*

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**G.R. No. 219376**

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